



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,580	01/12/2007	Randal L. Wimberly		8025

7590  
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PADUCAH, KY 42003

09/18/2009

EXAMINER

NEILS, PEGGY A

ART UNIT

PAPER NUMBER

2885

MAIL DATE

DELIVERY MODE

09/18/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **Notice of Abandonment**

Applicant (Pro Se) is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional, as set forth below.

#### **A. Failure to reply was unavoidable.**

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by: (1) the required reply (which has been filed); (2) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d); and (4) the \$\*\*\* petition fee as set forth in 37 CFR 1.17(l). No consideration to the substance of a petition will be given until this fee is received.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable.

A terminal disclaimer and the terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121 or 365(c) to the application for which revival is sought.

**B. Failure to reply was unintentional.**

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply (which has been filed); (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d) (see above discussion); and (4) the petition fee as set forth in 37 CFR 1.17(m). No consideration to the substance of a petition will be given until this fee is received. The Director may require additional information where there is a question whether the delay was unintentional.

The required items and fees must be submitted promptly under a cover letter entitled "Petition to Revive."

Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Mail Stop Petition  
                              Commissioner for Patents  
                              P.O. Box 1450  
                              Alexandria, VA 22313-1450

By FAX:                   571-273-8300  
                              Attn: Office of Petitions

Telephone inquiries with respect to this matter should be directed to the Office of Petitions Staff at (571) 272-3282. For more detailed information, see MPEP § 711.03(c).

PAN  
9/16/09

/Jong-Suk (James) Lee/  
Supervisory Patent Examiner, Art Unit 2885